

## § 356.28

be imposed, to the extent they differ from the sanctions in the initial decision.

(e) *Public notice of sanctions.* If the final decision is that there has been a violation of a protective order or a disclosure undertaking and that sanctions are to be imposed, notice of the decision will be published in the FEDERAL REGISTER and forwarded to the United States section of the Secretariat. Such publication will be no sooner than 30 days after issuance of a final decision or after a motion to reconsider has been denied, if such a motion was filed. If the final decision is made in a proceeding based upon a request to charge by an authorized agency of an FTA country, the decision will be forwarded to the Secretariat of the involved FTA country for transmittal to the authorized agency of the FTA country for publication in the official publication or other appropriate action. The Deputy Under Secretary will also provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations whenever the Deputy Under Secretary subjects a charged or affected party to a sanction under §356.12(a)(2) and to any Federal agency likely to have an interest in the matter and will cooperate in any disciplinary actions by any association or agency.

## § 356.28 Reconsideration.

Any party may file a motion for reconsideration with the APO Sanctions Board. The party must state with particularity the grounds for the motion, including any facts or points of law which the party claims the APO Sanctions Board has overlooked or misapplied. The party may file the motion within 30 days of the issuance of the final decision or the adoption of the initial decision as the final decision, except that if the motion is based on the discovery of new and material evidence which was not known, and could not reasonably have been discovered through due diligence prior to the close of the record, the party shall file the motion within 15 days of the discovery of the new and material evidence. The party shall provide a copy of the motion to all other parties. Opposing parties may file a response within 30 days

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of the date of service of the motion. The response shall be considered as part of the record. The parties have no right to an oral presentation on a motion for reconsideration, but the Board may permit oral argument at its discretion. If the motion to reconsider is granted, the Board will review the record and affirm, modify, or reverse the original decision or remand the matter for further consideration to an administrative law judge or the Deputy Under Secretary, as warranted.

## § 356.29 Confidentiality.

(a) All proceedings involving allegations of a violation of a protective order or a disclosure undertaking shall be kept confidential until such time as the Department makes a final decision under these regulations, which is no longer subject to reconsideration, imposing a sanction.

(b) The charged party or counsel for the charged party will be, to the extent possible, granted access to proprietary information in these proceedings, as necessary, under administrative protective order, consistent with the provisions of §356.10.

## § 356.30 Sanctions for violations of a protective order for privileged information.

The provisions of this subpart shall apply to persons who are alleged to have violated a Protective Order for Privileged Information.

## PART 357—SHORT SUPPLY PROCEDURES

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AUTHORITY: Sec. 4(b) of the Steel Trade Liberalization Program Implementation Act, Pub. L. No. 101-221, 103 Stat. 1886 (1989).

SOURCE: 55 FR 1349, Jan. 12, 1990, unless otherwise noted:

#### § 357.101 Definitions.

(a) *Arrangement* means an arrangement between the United States Government and a foreign government whereby the foreign government agrees to restrain voluntarily certain steel exports to, or destined for consumption in, the United States for the period of October 1, 1989, through March 31, 1992.

(b) *Aberration* means a domestic price which is out of the ordinary and present course of normal pricing trends.

(c) *Interested party* means (1) A U.S. producer or consumer of the product; (2) a U.S. importer/distributor of the product; or (3) a foreign producer of the product (through its government, if such government is a party to the arrangement under which a short supply allowance is requested).

(d) *Prevailing domestic market prices* means current prices in the United States market for domestically produced and imported product, as reflected in actual purchases and sales (but does not include import prices which the Secretary decides are likely to be significantly affected by dumping or subsidy practices).

(e) The *product* means the steel product for which a short supply allowance is requested or material that possesses the same physical and mechanical characteristics, and which can be used for the same applications without imposing any significant retooling costs on the consumer.

(f) *The Secretary* means the Secretary of Commerce and the person to whom the authority to make the short supply determination has been delegated (the Assistant Secretary for Import Administration) or the person making a final recommendation for decision to that person (the Deputy Assistant Secretary for Compliance.)

(g) *Short supply* exists for a product when there is not a sufficient supply of that product available to meet market demand in the United States. In determining whether short supply exists, the Secretary will not consider one factor alone to be dispositive, but will consider all relevant factors, including:

(1) To the extent information is available, the recent levels of capacity utilization for domestic facilities producing the product or product sector;

(2) The quantity of additional imports of the product requested by the petitioner and the ability of domestic producers to supply the product in such quantity;

(3) The willingness of the producers of the product to supply the product at a price that is not an aberration from prevailing domestic market prices;

(4) Reasonable specifications requested by the purchaser or any end user, such as metallurgical, dimensional, quality, service requirements, and supply only by a *qualified supplier* if such qualification is required by the purchaser's customers, and

(5) Delivery times to the purchaser and to end users of the product.

(h) *A short supply allowance* means an authorization to import into the United States a quantity of the product in excess of the aggregate quantitative import limitation under an arrangement.

#### § 357.102 Short supply allowances.

(a) The Secretary will authorize a short supply allowance if:

(1) The product is covered by an arrangement that provides for the authorization of a short supply allowance;

(2) An adequate petition is filed with the Secretary requesting a short supply allowance with respect to the product; and

(3) The Secretary determines that short supply exists with respect to the product.

The Secretary's short supply determination will be based only on information included in the official record. Any determination by the Secretary that is found to be based on inaccurate information will be reconsidered immediately.

(b) Address and submit petitions and all other documents concerning a short supply review (accompanied by four copies) to the Secretary of Commerce, Attention: Import Administration, Room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. All documents submitted must reference